THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.748 OF 2007

DATED 29th JANUARY, 2007

Between

A.Raja Reddy

... Petitioner

AND

The District Collector, Chittoor, Chittoor District and others.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.748 OF 2007

ORDER:

The dispute in this writ petition is in relation to land admeasuring Acs.1.01 cents in survey No.241/5 situated at Tiruchanur Village, Tirupati Rural Mandal, Chittoor District. The petitioner alleges that he purchased the subject land under registered sale deed, dated 12.07.1971 from Kodhanda Ramaiah, who is alleged to have obtained a Saswatha Patta (permanent grant) on 11.03.1941 from Sri Hathiramjee Mutt. The petitioner made an application under the provisions of A.P. (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (the Act, for brevity). The Inams Deputy Tahsildar, third respondent herein, allegedly conducted enquiry and granted ryotwari patta in S.R.No.21/1985, dated 20.01.1985. The petitioner claims to be in possession of the land duly fencing the same. When respondents 5 and 6 tried to interfere with the possession in 1990, the petitioner enquired and came to know that the third respondent granted a ryotwari patta to respondents 5 and 6 again by proceedings in S.R.No.11/90, dated 26.07.1990. Aggrieved by the same, the petitioner allegedly filed an Appeal under Section 7(2) of the Act before the second respondent on 26.12.1996, which is stated to be pending till date. In the meanwhile, the petitioner filed

W.P.No.2637 of 1997 before this Court challenging the order of the third respondent granting patta in favour of respondents 5 and 6. The same was disposed of by this Court on 12.02.1997 directing the District Collector to dispose of the Appeal within a period of three months therefrom. Again, when respondents 5 and 6 tried to interfere with the possession, the petitioner filed O.S.No.181 of 1997 on the file of the Principal Junior Civil Judge, Tirupati, for permanent injunction. The same was dismissed for default on 13.06.2005. The application filed by the petitioner being I.A.No.2041 of 2005 seeking to set aside the *ex parte* dismissal order is pending. Thereafter, the fourth respondent, it is alleged, started interfering with the possession and therefore, the present writ petition is filed. The petitioner prays for a writ of Mandamus declaring the action of the respondents in interfering with the peaceful possession as illegal and arbitrary and also for a direction to the second respondent not to dispossess the petitioner from the land.

This matter was initially listed on 11.01.2007 during the Sankranti vacation. However, the matter was not taken up for preliminary hearing and was adjourned. On 22.01.2007, the matter was again listed and to enable the contesting respondents to get instructions/filing counter, the matter was adjourned.

Respondents 5 and 6 appeared through a counsel and filed counter affidavit bringing out the following position. The allegation that the petitioner purchased the subject land from G.Dorai is not correct. Dorai is not the owner of the land at any point of time. In the enquiry conducted by third respondent on the application made by respondents 5 and 6, it was found that the land in question does not belong to Sri Hathiramjee Mutt or to Waranasi Raghunatha Reddy, and therefore, patta was granted to respondents 5 and 6 to an extent of Acs.0.85 cents in survey No.241/5. The petitioner never made any application nor any patta was granted to him on 20.01.1985 as alleged. The petitioner never appealed to the second respondent and the allegations made in this regard are not correct. The suit filed by the petitioner being O.S.No.181 of 1997 was dismissed. In the said suit, the petitioner as P.W.1 in cross-examination admitted that he never preferred any Appeal against patta granted to respondents 5 and 6 and

therefore, the writ petition is misconceived. When the petitioner tried to interfere, the contesting respondents filed a complaint, which is registered as crime No.10 of 2000 under Section 447 of Indian Penal Code, 1860, with P.S., Tiruchanur. Further, the fifth respondent filed O.S.No.251 of 1996 for permanent injunction against six defendants and the same is decreed by the Court of the Principal Senior Civil Judge, Tirupati. The petitioner has withheld these facts from the Court.

Learned Assistant Government Pleader has not filed counter affidavit but on instructions, he submits that no Appeal is filed by the petitioner and no such appeal is pending before the second respondent. He also submits that patta was granted to respondents 5 and 6 on 26.07.1990.

Learned counsel for the petitioner insisted that a direction should be issued to respondents 2 and 3 to produce the record. According to the learned counsel, patta was granted to the petitioner in 1985 and that when again the third respondent without jurisdiction granted patta in favour of respondents 5 and 6 in 1990, the petitioner preferred an Appeal under Section 7(2) of the Act, which is pending. According to the learned counsel, these allegations will stand proved, if the record is produced by the respondents. **Per contra**, learned Assistant Government Pleader for Revenue and the learned counsel for the respondents 5 and 6 opposed the writ petition *inter alia* on the ground that the writ petition is liable to be dismissed for *suppressio vary and suggestio falsi.*

The petitioner has approached this Court alleging that he purchased the land from Saswatha pattaholder/Inamdar and obtained a ryotwari patta from the third respondent in 1985. This is strongly denied by respondents 5 and 6. Though the counter affidavit is filed by respondents 5 and 6, and though adjournment was granted on 22.01.2007 to enable the petitioner to file reply affidavit, it is not filed. Secondly, the contention of the learned Assistant Government Pleader and the learned counsel for respondents 5 and 6 that the petitioner did not prefer any Appeal against grant of patta to the contesting respondents in 1990 is supported by the admissions made by the petitioner as P.W.1 in O.S.No.181 of 1997. A Xerox copy of the deposition of the petitioner is annexed to the

counter affidavit filed by respondents 5 and 6, which would reveal the following admission.

> I have not preferred any appeal before the District Collector against the defendants for the grant of Ryotwari patta in their favour. I have not filed writ petition No.2637/97 before the Hon'ble High Court of A.P., Hyderabad, by engaging A.Gopal Reddy as my advocate to the effect that my appeal was not disposed of by the Collector, Chittoor. I am not aware about the disposal of the above writ as per order dt.12.2.97 with a direction to dispose of the appeal by the District Collector, Chittoor.

From the above Admission, it becomes clear that the present writ petition is filed making all false allegations and suppressing relevant facts. Therefore, this Court is not inclined to entertain the writ petition.

The writ petition is accordingly dismissed. No costs.

(V.V.S.RAO,J)

29.01.2007.
pln